

International Labour Conference

NINETEENTH SESSION

GENEVA, 1935

Employment of Women on Underground Work in Mines of All Kinds

Second Item on the Agenda



GENEVA
INTERNATIONAL LABOUR OFFICE

1935

INTERNATIONAL LABOUR OFFICE

GENEVA, SWITZERLAND

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INTRODUCTION

Following upon resolutions adopted by the Twelfth (1929) and Fifteenth (1931) Sessions of the International Labour Conference, the Governing Body of the International Labour Office, at its Sixty-first Session on 1 February 1933, placed on the agenda of the Eighteenth (1934) Session of the Conference the question of the "employment of women on underground work in mines of all kinds". The Eighteenth Session of the Conference (June 1934) decided, after consideration of a Grey Report prepared by the International Labour Office setting out the law and practice in the matter in the various countries, that the question should be placed on the Agenda of the Nineteenth Session of the Conference (1935) for a second and final discussion, and also settled the points upon which the Governments of the States Members of the International Labour Organisation should in the meantime be consulted. A Questionnaire was accordingly issued by the International Labour Office in July 1934 in order to ascertain the views of Governments as to the nature of the proposals which might be submitted to the Nineteenth Session of the Conference for consideration and decision.

The replies of the Governments to this Questionnaire are reproduced in Chapter I of this Report. Chapter II gives a brief analysis of these replies. Chapter III sets out the conclusions drawn therefrom upon which the International Labour Office has based the proposed text of a Draft Convention which it submits to the Conference with a view to the taking of a final decision as to the adoption of international regulations on the subject.

In order to give the Office a sufficient interval in which to prepare this Report and despatch it in good time before the national delegations left their countries to attend the Nineteenth Session of the Conference in Geneva, Governments were asked to furnish their replies to the Questionnaire by 10 November 1934 in the case of European countries, and by 30 November in the case of countries outside Europe. Many replies were not

received until after these dates, but by 31 January 1935, the date on which this Report was closed for the purpose of including replies to the Questionnaire, replies had been received from the Governments of the following 28 States :

Australia, Belgium, Brazil, Bulgaria, Canada (Provinces of Alberta, British Columbia, Manitoba, New Brunswick, Ontario, Prince Edward Island, Quebec and Saskatchewan), Chile, China, Denmark, Estonia, Finland, France, Great Britain, India, Iraq, the Irish Free State, Italy, Japan, Lithuania, Luxemburg, the Netherlands, New Zealand, Norway, Poland, Spain, Sweden, Switzerland, the Union of South Africa and Yugoslavia.

Any further replies which may be received will be brought to the notice of the Conference in a Supplementary Report¹.

Geneva, February 1935.

¹ The reply of the Government of Austria was received as this Report was about to be sent to press. This reply is reproduced at the end of Chapter I, but time did not permit of account being taken of it in the preparation of the later chapters.

CHAPTER I

REPLIES OF THE GOVERNMENTS TO THE QUESTIONNAIRE

Since mining operations are not, of course, carried on in all countries, it was to be expected that a certain number of Governments would not reply in detail to the Questionnaire, but would content themselves with a general statement of their attitude. The replies of these Governments are grouped below.

AUSTRALIA

The Government of the Commonwealth of Australia have no observations to offer on the subject. The subject-matter of the Questionnaire is one that falls mainly within the jurisdiction of the States of Australia, and in each of the States the work of women underground in mines is prohibited by legislation.

BULGARIA

Article 15 of the Bulgarian law on the health and safety of workers prohibits the employment of women on underground work in mines. The Labour Directorate now opposes on principle the employment of women even on surface work in mines.

CANADA

Alberla

The Provincial Government refers to Section 7 of Part II of the Coal Mines Act, from which it will be seen that this Province has already prohibited the employment of women in coal mines. The terms of the Section are as follows :

(1) No boy under the age of sixteen years and no woman or girl of any age shall be employed or permitted to be in any mine for the purpose of employment therein.

(2) No boy under the age of sixteen years of age and no woman or girl of any age shall be employed or permitted to be in or about the surface workings of a mine for the purpose of employment, and every manager shall on the request of an inspector produce a copy of a certificate of birth or an affidavit or statutory declaration made by some person having a knowledge of the facts, setting forth the age of any boy employed in or about any mine or surface workings :

Provided always that nothing herein contained shall prevent the employment of any person engaged in the performance of clerical work or in performing domestic duties in any hotel, boarding house or residence in connection with any mine.

British Columbia

The Provincial Government cites the Sections of the Provincial Statutes which have a bearing upon the employment of women in mines, from which it will be seen that the Province has already taken the legislative steps to implement the proposals set out in the Questionnaire which may subsequently assume the form of either a Draft Convention or a Recommendation of the International Labour Conference.

Under Section 4 of Part I of the Coal Mines Regulation Act (Chapter 171 of the Revised Statutes of British Columbia, 1924) :

" No boy under the age of fifteen years and no woman or girl of any age shall be employed or be permitted to be in any mine for the purpose of employment therein. No boy under the age of fourteen years and no woman or girl of any age shall be employed or be permitted to be in or about the surface workings of a colliery for the purpose of employment; and every manager shall, on the request of an inspector, produce a copy of the certificate of birth or an affidavit or a statutory declaration setting forth the age of any boy employed in or about any mine or surface workings; Provided that this prohibition shall not affect the employment of any person engaged in the performance of clerical work, or in performing domestic duties in any hotel, boarding house, or residence in connection with any colliery."

Under Section 31 (15) of the Metalliferous Mines Regulation Act (Chapter 172 of the Revised Statutes of British Columbia, 1924) :

" No boy under the age of twelve years, no woman or girl of any age, and no Chinese or Japanese person shall be employed in, or allowed to be for the purpose of employment in, any mine to which this Act applies below ground."

New Brunswick

There are no women working underground in the mines of the Province of New Brunswick.

Ontario

The Provincial Government observes that Section 15-t (2) of the Mining Act of Ontario requires that " no girl or woman shall be employed in or about any mine except in a technical, clerical or domestic capacity."

Prince Edward Island

There are no mining operations whatever carried out in this Province.

DENMARK

As there are in Denmark no mines in which women are employed, the question is not one of practical concern. It is, however, considered desirable that the Conference should adopt international regulations prohibiting the employment of women on underground work in mines. The Government has not the experience necessary to enable it to reply to the points raised in Questions 3 to 7, and therefore confines itself to replying in the affirmative to Questions 8 and 9.

IRAQ

As there are no mining industries involving underground labour in Iraq, the Government regards the subject as inapplicable to Iraq.

JAPAN

The Japanese Government is in principle in favour of international regulations prohibiting the employment of women on underground work in mines of all kinds. It considers, however, that it would be preferable to authorise by way of exception the employment of women on underground work in coal mines at present being worked in cases where women are now engaged on such work and where, owing to unfavourable natural conditions, the prohibition of women's labour would give rise to such difficulties as to create a risk of the immediate closing down of the undertaking and, consequently, causing unemployment among miners. This exception should, however, be subject to the condition that the two parties concerned — the workers and the employers — desire the continuance of underground work by women.

LITHUANIA

As the question of the employment of women on underground work does not arise in Lithuania, there being no work of this kind, the Government is not in a position to give replies to the Questionnaire.

NEW ZEALAND

The legislation of New Zealand already provides that no female shall be employed underground in any mine, and the Government considers that this position should obtain universally. For this reason adoption of a Draft Convention is favoured, the definition of extractive workings to include coal mines, shale mines, gold mines, metal mines, mines in which any mineral is worked and stone mines.

UNION OF SOUTH AFRICA

The employment of women on underground work in mines is prohibited by the provisions of the Mines and Works Act, No. 12 of 1911, and in the Mandated Territory of South West Africa no women are employed in mines. In these circumstances, it is improbable that the Union would find itself opposed to the terms of a Convention embodying the principle of prohibition.

In view of the fact that this country has no experience of the problems arising in connection with the employment of women in mining, either in the Union or in other countries, it does not feel justified in attempting to reply to the Questionnaire categorically.

The statements of the Governments that furnished in time for inclusion in this Report detailed replies to the Questionnaire are reproduced below, arranged in the alphabetical order

of the countries and sub-divided under the following headings of the Questionnaire :

Desirability of International Regulations : Question 1.

Form of the Regulations : Question 2.

Scope of the Regulations :

(a) As regards Mines : Questions 3 and 4.

(b) As regards Persons : Questions 5, 6 and 7.

Application to Colonies, etc. : Questions 8 and 9.

I. DESIRABILITY OF INTERNATIONAL REGULATIONS

1. Do you consider it desirable that the International Labour Conference should adopt international regulations prohibiting the employment of women on underground work in mines of all kinds ?

BELGIUM

1. The reply is in the affirmative.

BRAZIL

1. The Brazilian Federal Law of 17 May 1932 absolutely prohibits women from working in any underground work-place, mining undertaking or quarry. The Brazilian Government therefore cannot but be in favour of the adoption of international regulations establishing the principle that this prohibition should be enforced by all countries.

CANADA

Manitoba

The Provincial Government points out that the Mining Industry in Manitoba is governed by the Mines Act and regulations adopted thereunder. No specific enactment has been made regarding the employment of women in mines but the Lieutenant-Governor in Council may, in accordance with Section 7 (1) (c), make regulations and orders "for regulating the age and sex of persons who may be employed and setting a maximum number of working hours during which they may be employed in or about a mine." The question of employment of women in mines in Manitoba has never arisen. To date no women are so employed and it is not likely that any may be. The Questionnaire is answered having in mind conditions as they exist in the Province of Manitoba.

1. The reply is in the affirmative.

Quebec

1. The reply is in the affirmative.

Saskatchewan

The provisions of The Mines Act of Saskatchewan provide that no boy under the age of fourteen years and no woman or girl of any

age shall be employed or be permitted to be in the workings of any mines.

1. The Government is of the opinion that it is desirable that the International Labour Conference should adopt international regulations prohibiting the employment of women on underground work in mines of all kinds.

CHILE

1. The reply is in the affirmative.

CHINA

1. Yes; the International Labour Conference should adopt international regulations prohibiting the employment of women on underground work in mines of all kinds.

DENMARK

1. The reply is in the affirmative (*see* page 8).

ESTONIA

1. Article 9 of the Law of 20 May 1924 on the employment of children, young persons and women in industrial undertakings provides that women may not be employed on underground work in mines. This being so, it is to the interest of Estonia that there should be international regulations dealing with the prohibition of the employment of women on such work. The Estonian Government therefore considers it desirable that the International Labour Conference should adopt international regulations on the subject.

FINLAND

1. The reply is in the affirmative.

FRANCE

1. The Government considers it desirable that the International Labour Conference should adopt international regulations prohibiting the employment of women on underground work in mines of all kinds.

GREAT BRITAIN

1. The reply is in the affirmative.

INDIA

1. The Government of India consider it desirable that the International Labour Conference should adopt international regulations prohibiting the employment of women on underground work in mines of all kinds.

IRISH FREE STATE

1. The reply is in the affirmative.

ITALY

1. The Italian Government is in favour of adopting international regulations which would prohibit the employment of women on underground work of all kinds.

LUXEMBURG

1 and 2. It is desirable that the employment of women on underground work in mines should be the subject of a Draft Convention.

NETHERLANDS

1. The reply is in the affirmative. The Netherlands Mining Regulations of 1906 prohibit the employment of women even on surface work.

NEW ZEALAND

1. The reply is in the affirmative (*see* page 9).

NORWAY

1. The reply is in the affirmative.

POLAND

1. It is desirable that the International Labour Conference should adopt international regulations prohibiting the employment of women on underground work in mines of all kinds.

SPAIN

1. The Government considers it desirable that the Conference should adopt international regulations on this subject.

SWEDEN

1. The reply is in the affirmative.

SWITZERLAND

1. The subject of the Questionnaire is hardly of direct interest to Switzerland, which has little in the way of natural resources which require exploitation by underground working. For this reason, the Confederation has not felt any necessity for the adoption of special legislation on mines (though it may be noted in passing that mines, quarries, and gravel pits are subject to compulsory accident insurance). While mining itself is of little importance in Switzerland as a whole, the question of the employment of women in mining is of less importance still. According to the Federal Industrial Census taken in 1929, the number of persons of the female sex employed in that year in the working of minerals was 31 (of whom 3 were members of the management staff) and these women were not occupied on underground work but on screening work outside the mine. Women have never been employed in the underground galleries from which the raw material is extracted for certain cement and plaster factories.

Switzerland fully recognises, however, the importance of the problem for the countries where there is a considerable mining industry, in which there may still perhaps be some employment of female labour. If the countries directly concerned desire the adoption of international regulations on the subject, Switzerland is prepared to collaborate, and would do so with all the more willingness since it has always been very keenly interested in the question of women's work, as is shown by the fact that in undertakings covered by the Factory Act, the employment of women is prohibited in certain cases, such as on work which may cause violent shocks, or which entails lifting, carrying or moving heavy burdens (Article 183, Nos. 10 and 11, of the Ordinance for the execution of the Act). Switzerland is of the opinion that laborious manual work underground is certainly not appropriate to women.

YUGOSLAVIA

1. It is desirable that the International Labour Conference should adopt international regulations prohibiting the employment of women on underground work in mines of all kinds.

II. FORM OF THE REGULATIONS

2. Should the international regulations take the form of a Draft Convention rather than of a Recommendation ?

BELGIUM

2. The international regulations should take the form of a Draft Convention.

BRAZIL

2. The Government is of opinion that the regulations should take the form of a Convention, since it is desirable that the proposed prohibition should be made effective everywhere with the least possible delay.

CANADA

Manitoba

2. A Recommendation is considered better.

Quebec

2. The international regulations should take the form of a Draft Convention.

Saskatchewan

2. Such regulations should take the form of a Draft Convention.

CHILE

2. The international regulations should take the form of a Draft Convention.

CHINA

2. The regulations should preferably take the form of a Draft Convention.

ESTONIA

2. The Estonian Government is in favour of a Draft Convention.

FINLAND

2. Preferably the form of a Draft Convention.

FRANCE

2. The Government considers that the regulations should take the form of a Convention.

GREAT BRITAIN

2. A Draft Convention.

INDIA

2. The international regulations should take the form of a Draft Convention rather than a Recommendation.

IRISH FREE STATE

2. A Draft Convention.

ITALY

2. It is thought that a Draft Convention would serve the purpose of such regulations better than would a Recommendation.

LUXENBURG

2. A Draft Convention (*see* page 12).

NETHERLANDS

2. In the opinion of the Netherlands Government, the form of a Draft Convention would be preferable to that of a Recommendation.

NEW ZEALAND

2. A Draft Convention (*see* page 9).

NORWAY

2. The reply is in the affirmative.

POLAND

2. The international regulations should take the form of a Draft Convention.

SPAIN

2. The international regulations should take the form of a Convention, especially since the subject matter would be the prohibition of underground work.

SWEDEN

2. The reply is in the affirmative.

SWITZERLAND

2. If they are to be effective, the regulations should certainly take the form of a Draft Convention.

YUGOSLAVIA

2. The international regulations should take the form of a Draft Convention.

III. SCOPE OF THE REGULATIONS

(a) *As regards mines*

3. Should the term "mines" be defined in the international regulations?

4. If a definition is included, which types of extractive workings should be covered by the definition?

BELGIUM

3. The regulations should include a definition of the term "mines".

4. The scope of the Draft Convention should include all mines, open mine workings and quarries.

BRAZIL

3. The Government is of opinion that the regulations should include a definition of "mines", framed with special reference to the protection of women workers.

4. The definition should be sufficiently comprehensive and explicit to avoid any possibility of doubts arising as to the scope of the regulations; but it is not necessary to give a detailed specification of the various classes of undertakings covered. There would always be a risk of such a specification being incomplete and so giving rise to differences of opinion. The Government therefore proposes the following formula: "These regulations apply to all undertakings engaged in the extraction, by means of shafts, tunnels, galleries, or underground work-places and by manual labour or mechanical, physical or chemical processes, of materials of any kind intended to be applied or used for any industrial, domestic, artistic or other purpose."

In addition to the undertakings usually classed as "mines", which are engaged in the extraction of fuel of all kinds, metallic ores,

rock salt, various mineral substances such as phosphates of lime, barium sulphate and other compounds used in industry, this definition covers also other undertakings usually described as "quarries" or simply as "workings", such as works for the extraction of limestone, building stone and marble, pottery and brick clays, fireclay, coloured earths, and various other materials (shale, asbestos, mica, talc, etc.). These latter works are usually open to the sky, but they may also utilise galleries and underground workings. Wherever they involve underground work there is no good reason for excluding them from the scope of the regulations.

Further, the definition proposed makes no distinction between the different methods of working that may be adopted. It covers not only undertakings making use only of the muscular energy of man or beast but also those utilising machinery, whatever be the source of power, extracting the materials by compressed air or water, or using explosives or other energy developed by chemical reactions.

In short, the definition proposed above appears to leave no room for doubt as to the undertakings to be considered as "mines" and therefore subject to the provisions of the regulations concerning the employment of women.

CANADA

Manitoba

3. "Mines" should be defined in international regulations.
4. All types of extractive workings should be covered.

Quebec

3. The reply is in the affirmative.
4. In the Quebec Mining Act, the word "mines", when applied to the exclusion of women and girls from employment, includes all mineral substances.

Saskatchewan

3. The term "mines" should be defined in the international regulations.
4. The type of extractive workings which should be covered by such definition should include every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening the mine; and all the shafts, levels, planes, works, machinery, tramways and sidings both below and above ground in or adjacent to a mine and any such shaft, level or inclined plane belonging thereto.

CHILE

3. As the regulations would apply to all underground work it is not necessary that they should include a definition of the term "mines".
4. All kinds of extractive workings.

CHINA

- 3 and 4. The Government is of opinion that it is not necessary to include a definition of the term "mines" in the regulations.

ESTONIA

3. The term " mines " appears in several Conventions adopted by earlier Sessions of the International Labour Conference, e.g. the Hours of Work (Industry) Convention, the Night Work (Women) and Night Work (Young Persons) Conventions, the Weekly Rest (Industry) Convention, etc. In none of these Conventions is any definition given of the term " mines ", and this fact has not, so far as is known, given rise to any misunderstanding. It would therefore appear to be preferable not to burden the text of the Draft Convention by including in it a definition, the framing of which might give rise to much difference of opinion and the utility of which would be, to say the least, doubtful.

4. See the reply to Question 3.

FINLAND

3 and 4. The regulations should include a definition of " mines ", which should cover underground workings of all kinds and also large workings open to the sky assimilable to mines, such as quarries, gravel-pits, sand-pits, clay-pits, etc. In the case of the latter, it should be left to the competent authority in each country to determine the cases in which they would be subject to the international regulations.

FRANCE

3 and 4. The Government considers that the prohibition of the employment of women should apply to all underground working of mineral or fossil substances found in the ground or at the surface. It is, of course, to be understood that the mineral substances mentioned above do not include mineral waters from springs utilised for their therapeutic properties.

GREAT BRITAIN

3. The reply is in the affirmative.

4. All types of underground extractive workings should be covered by the definition.

INDIA

3. The regulations in force in British India have reference to mines as defined in section 3 (f) of the Indian Mines Act 1923. The definition covers all excavations where any operation for the purpose of searching for or obtaining minerals has been or is being carried on. Since this definition could hardly be wider the Government of India are not themselves interested in securing any definition of the term " mines " in the international regulations.

4. The definition, if it is decided to include one, should cover all types of extractive workings in which labour is commonly employed underground.

IRISH FREE STATE

3. The reply is in the affirmative.

4. Every working, for the purpose of extracting mineral or other substance, carried on underground (i.e. not open to the sky), and the

underground portion of every shaft, level and inclined plane, whether completed or in the course of being sunk or driven.

ITALY

3 and 4. It does not seem possible to give a satisfactory definition of the term "mines" owing to the difficulties which the term raises and to the dangers inherent in any definition.

It would be enough to state that the regulations apply to mines of all kinds, making it clear that they extend to all undertakings in the mining industry, the object of which is to prospect for or extract minerals, and that their scope includes all those operations involved in the extraction of minerals which are strictly analogous to mining operations proper.

LUXEMBURG

3. The Draft Convention should contain a definition of the term "mines".

4. The definition should cover "any extraction of part of the subsoil from underground" or "any undertaking for the purpose of extracting stone, ore, mineral or fuel."

NETHERLANDS

3. In view of the diversity of the definitions of the term "mines" in national legislation, the reply is in the affirmative.

4. The prohibition is justified rather by the nature of the work than by the nature of the mineral or fossil substances extracted. A definition such as those given in the French, Belgian and Netherlands mining laws, based on a classification of the materials extracted in three categories, would therefore not be desirable. It would be preferable to include in the Draft Convention a definition specifying the nature of the work and covering, if possible, all kinds of mines.

NEW ZEALAND

3 and 4. The definition of extractive workings should include coal mines, shale mines, gold mines, metal mines, mines in which any mineral is worked and stone mines (see page 9).

NORWAY

3. It is considered that "mines of all kinds" is sufficient to define the scope of the Convention.

4. See the reply to Question 3.

POLAND

3. The Draft Convention should apply to mines of all kinds. It is not necessary to include in the Draft Convention a definition of the term "mines".

4. 'No reply is given.'

SPAIN

3. The Draft Convention should apply generically to mines of all kinds, regard being had to the fact that the regulations are to deal with the prohibition of underground work.

4. Every kind of underground work should be prohibited to women of the status of "female workers".

SWEDEN

3 and 4. The prohibition of the employment of women on underground work which is in force in Sweden applies to mines and quarries of all kinds. It would be desirable to make the proposed prohibition as wide in scope as possible.

SWITZERLAND

3. This question must be answered in the affirmative since the term "mine" is used in different senses, sometimes being applied, it is believed, to workings which are entirely in the open air. It seems desirable also to define exactly what is meant by the term "underground work".

4. In the Government's opinion, the regulations should apply to all mines in the strict sense of the term, that is to say, to all workings which are not carried on at the surface of the ground, but underground by means of pits and quarries, whatever may be the mineral to be extracted. So far as Switzerland is concerned, it might be possible to go even further, and prohibit also the employment of women on surface workings, that is to say, in quarries and gravel pits, inasmuch as there is, as has already been pointed out, very little employment of this kind in Switzerland, and it is already prohibited in practice in undertakings covered by the Factory Act.

YUGOSLAVIA

3 and 4. It would be sufficient if the international regulations were to apply to "mines of all kinds" without giving a precise definition of the term "mines".

(b) *As regards persons*

5. Do you consider that the international regulations should apply

(a) to all persons of the female sex, with the exception of certain special categories?

or (b) to "female workers"?

6. If the basis adopted should be that indicated in Question 5 (a), what special categories do you consider should be excluded?

7. If the basis adopted should be that indicated in Question 5 (b)

- (a) What classes of persons do you consider would be covered by the term "female workers" and what classes, if any, do you consider would be excluded?
- (b) Do you consider the term "female workers" a sufficient definition, and, if not, what definition do you propose?

BELGIUM

5, 6 and 7. The proposed regulations should apply to every person of the female sex engaged in production or on work connected with production.

BRAZIL

5. The Government is of opinion that the regulations should apply to all persons of the female sex, without exception, whether they are manual workers or not. Nevertheless, it is thought that one, and only one, exception should be permitted, namely, women doctors. These should be allowed to go down into underground workings in cases of accident, as a quite exceptional event, when it is established that there are no male doctors or an insufficient number of male doctors in the immediate vicinity and there is urgent need of skilled attention for the victims of the accident.

As regards women labour inspectors, the Government is of opinion that their functions should be limited primarily to the supervision of undertakings in which women and young persons of both sexes are employed, whether exclusively or together with male workers. Nevertheless, there should not be an absolute barrier against using the services of women inspectors for inspecting works employing neither women nor young persons. The use of their services in such cases is rather a matter of convenience, and depends also on the staff that the administration has at its disposal for inspection. It would certainly be appropriate for women inspectors to have access to the surface workings of mining undertakings in which the employment of women is authorised by official regulations, but their presence in underground workings would not be justified, seeing that the employment of women therein would be prohibited by law. Moreover, such workings must necessarily be under the constant supervision of special inspectors, who have to visit them frequently.

As regards women engineers, there can obviously be no question of preventing them from exercising their profession in mining undertakings, but it does not seem that there is any occasion to authorise them to discharge the exacting and tiring functions entailed by the supervision of work effected underground. In the Government's view, duties of a technical character connected with management and accountancy, together with laboratory and draughtsman's work, are better suited for women holding the diplomas of technical institutes and offer them a sufficiently wide scope for their professional activities.

6. (See the reply to the preceding Question).

7. (No reply is given.)

CANADA

Manitoba

5. International regulations should apply to all persons of the female sex with the exception of certain special categories.

6. The categories to be excluded should be salaried employees and professional women.

7. (a) The term "female worker" should include girls and women.

(b) The term "female workers" is not sufficient. The words "no girl or woman" are proposed.

Quebec

5. The international regulations should apply to all persons of the female sex with the exception of salaried female office employees.

6. Salaried female office employees.

7. The expression "female workers" should include all female persons working underground in an open cast pit or quarry, on surface, in yards and buildings employed in manual work or in charge of machines or the supervision thereof, with the exception of salaried female office employees.

Saskatchewan

5. The Government is of the opinion that the regulations should apply to "female workers".

6 and 7. The Government is of the opinion that the term "female workers" is a sufficient definition.

CHILE

5. The reply is in the affirmative to (a).

6. It would be necessary to exclude women exercising a profession, such as engineering, medicine, etc., who might occasionally have to carry out some technical work in mines.

7 (a) In the event of the basis indicated in the reply to Question 5 (a) not being adopted, it would be necessary to regard the term "female workers" as covering all women whose services consist wholly or to a considerable extent in manual or material work, and to exclude women exercising a profession, in the circumstances set out in the reply to Question 6, and women engaged solely in management or supervision.

(b) The reply is in the affirmative.

CHINA

5 and 6. The Government is of opinion that the regulations should apply to "female workers".

7. In the event of the adoption of the basis indicated in Question 5 (b), the Government's view is that the term "female workers" should cover all persons of the female sex working in mines, whatever their age, without any exception.

ESTONIA

5. Once it is admitted that underground work in mines is injurious to the health of women there is no reason why the prohibition of such work should be restricted to "female workers" only. On the contrary, the proposed regulations should apply to all persons of the female sex with the exception of certain special categories.

6. The categories to be excluded should be women holding responsible positions of management, as provided in Article 8 of the Night Work (Women) Convention (Revised) 1934, and women engaged in the medical and first aid service.

7. See the reply to Question 5.

FINLAND

5 and 6. The regulations should apply to all persons of the female sex with the exception of certain special categories, such as women doctors, engineers and nurses, who may occasionally have to go down the mine. The competent authority in each country should be authorised to define these special categories.

7. The phrase "person of the female sex", used in Question 5 (a), includes "female worker" in its scope.

FRANCE

5. The Government is of opinion that the prohibition should apply to all persons of the female sex in respect of employment underground as the principal and permanent occupation. Exceptions might, however, be authorised for occasional descents by such persons as, for example, nurses or employees of the survey office at the surface.

6. See the reply to Question 5.

7. See the reply to Question 5.

GREAT BRITAIN

5. (a) All persons of the female sex with no exceptions whatever.

(b) The reply to 5 (a) covers this.

6. Covered by reply to 5 (a).

7. Covered by reply to 5 (a).

INDIA

5. The Government of India prefer alternative (a) to alternative (b). It would be a difficult matter to define "female workers" in such a way as to stop evasion, while further difficulty might arise from the fact that no such definition is likely to be permanent or complete. The definition of categories under alternative (a) would however be simple and unlikely to give rise to evasion. If the principle that women are not to work underground in mines is accepted, the only women who will have occasion to enter mines will be (a) visitors or sightseers, (b) women exercising a profession or special calling, and, in exceptional circumstances, (c) relatives and friends of male workers.

6. If the basis indicated in Question 5 (a) is adopted, the Government of India consider that the following special categories should be excluded :

(a) *bona fide* visitors and sightseers (including engineering students and the like);

(b) women having occasion to enter the underground workings of a mine in the exercise of a profession, or for scientific purposes (e.g. engineers, doctors, lawyers engaged in cases, geologists and the like);

(c) individual women not included in categories (a) and (b), but permitted by a competent authority to visit the underground workings of a mine for a purpose certified by that authority to be legitimate (e.g. relatives of workers in special circumstances).

7. (a) If the basis indicated in Question 5 (b) is adopted, the Government of India consider that the term "female workers," if not specifically defined, would exclude women exercising a profession or engaged on scientific work, but include all manual workers. There would however be a small indeterminate class, e.g. of subordinate technical personnel, who would not fall definitely either in the "professional" or in the "manual workers" category.

(b) The term "female workers" would therefore appear to require definition and might be so defined as to include all manual workers.

IRISH FREE STATE

5. The reply is in the affirmative to (b).

6. The question does not arise.

7. (a) The term "female workers" would include women workers who are ordinarily employed underground on manual work. It would exclude Government officials and women employed in a professional capacity, e.g. engineers, nurses, doctors, chemists, etc.

(b) It is considered that the term "female workers" is not an adequate definition for universal application. A definition on the lines of the reply to (a) above is proposed, viz : "women workers who are ordinarily employed underground on manual work."

ITALY

5 (a) and (b) The prohibition should apply to all persons of the female sex, whatever their age, save in certain cases which the Convention should specify.

6. Exceptions should be allowed only in the case of women who are employed in the technical management of a mine or in one of its departments and who are directly responsible for operations, or in the case of women who have medical, nursing, legal or technical duties to perform and who cannot discharge these duties without going down into the galleries. These exceptions should however be allowed only on the understanding that these women shall not remain in the galleries longer than is strictly necessary for the discharge of their duties.

7 (a) and (b) It does not seem expedient to confine prohibition to "female workers" alone, and accordingly no proposal is made for defining the term "female workers" or the scope of regulations applying to such workers.

LUXEMBURG

5, 6, and 7. The regulations should apply to all persons of the female sex. Speaking generally, the scope of the regulations to be adopted should be as wide as possible. The Government of Luxemburg would favour the regulation by means of a further Draft Convention of the employment of women in open workings for the extraction of part of the subsoil.

NETHERLANDS

5 and 6. The regulations should apply to all persons of the female sex. Exceptions should however be allowed to provide for any case in which the presence of the person underground must be regarded as exceptional, e.g., in the case of scientific work. In such a case there is no "employment" in the narrow sense of the word.

7. Having regard to the reply to Questions 5 and 6, a reply to Question 7 is not necessary.

NORWAY

5. The regulations should apply only to "female workers".

6. (No reply is given.)

7. (a) By the term "female workers" would be covered only workers performing manual labour.

(b) The reply is in the affirmative.

POLAND

5. The Draft Convention should apply to all persons of the female sex.

6 and 7. (No replies are given.)

SPAIN

5. (a) The regulations should not apply to all persons of the female sex but to "female workers", for there may be women employed in mines as inspectors, nurses, doctors, or otherwise discharging duties of a technical character which do not fall within the category of work corresponding to that ordinarily performed by female workers.

(b) In view of what has been said above, the reply to this question must be in the affirmative.

6. The regulations should prohibit only the normal work of female workers to the exclusion of any other activity in the nature of management or technical assistance which does not entail permanent and continuous presence at the bottom of the mine.

7. The Government is of opinion that the term "female workers" possesses a sufficiently precise meaning in national legislation. In the case of the Spanish legislation, there could not be the least doubt as to the scope of the term as regards the normal character of the work to which it relates.

SWEDEN

5. The regulations should apply to every person of the female sex employed on work which is in the strict sense of the term the working of a mine or quarry.

6 and 7. (No replies are given.)

SWITZERLAND

5. The Government is of the opinion that it would be better to apply the regulations to all persons of the female sex with certain exceptions, rather than to "female workers" only. The term "female workers" is not sufficiently precise, and in practice might be interpreted in different ways, with the result that it might even lead to the exclusion of certain persons who ought to be protected.

6. Exceptions should be made for women occupying a position of management, or discharging the duties of an engineer, and also for women employed in the medical and first-aid service, if it can be assumed that such a service might be considered as included in the term "underground work", and in so far as the duties do not have to be carried out by regular visits in the galleries but are normally performed in a fixed place.

7. The Government considers that the term "female workers" would apply to every person taking part in underground work in a mine, with the exception of persons who are entrusted with duties of management, or who have passed through a course of mining engineering, together with women attached to the medical and first-aid service. Exceptions should also be made for probationers and volunteer workers, who may occasionally work underground during their training for the higher posts in the undertaking.

If the term "female workers" should be adopted, it should, in the view of the Swiss Government, be accompanied by a precise definition of the categories of persons excluded from the scope of the regulations.

YUGOSLAVIA

5. The international regulations should apply simply to "female workers".

6. See the reply to Question 5.

7. It is not desirable to enumerate the categories of persons covered by the term "female workers", but since that term is not sufficiently precise a general formula should be used which would cover all female workers.

IV. APPLICATION TO COLONIES, ETC.

8. Do you consider that the international regulations should include a special Article concerning their application to colonial territories and the methods of applying Article 421 of the Treaty of Peace?

9. If the reply to Question 8 is in the affirmative, do you consider that the Article might follow the lines of Article 26 of the Convention concerning forced or compulsory labour?

BELGIUM

8 and 9. The international regulations should include a provision concerning their application to colonial territories, and there would be no objection to this provision being based on Article 26 of the Forced Labour Convention.

The Government adds that women are not employed on underground work in the mines of the Belgian Congo and Ruanda-Urundi.

BRAZIL

8. As Brazil does not possess any colonies, it is not directly concerned in this question. Nevertheless, the Government feels bound to point out that in various regions of its territory there are primitive peoples who have felt the impact of civilisation in greater or less degree and whose conditions of life may be assimilated to those of the Native populations of the colonies of certain European countries. The labour of these Natives might perhaps be utilised in underground mine workings. In regard to this class of the population, the labour legislation of Brazil makes no exception and the prohibition of the employment of women on any work underground must be respected in their case as in the case of any other class of citizens.

The Brazilian Government could not, without acting at variance with the principles of its social legislation, agree to any special provision in the international Convention which would exempt certain countries from the full application in their colonial territories of the prohibition of the employment of women on underground work.

9. (No reply is given.)

CANADA

Manitoba

8 and 9. The reply is in the negative.

Quebec

8 and 9. (No replies are given.)

Saskatchewan

8 and 9. The question of applying the Conventions to colonies, protectorates and possessions, is one that does not concern the Province. Consequently the Government submits no reply.

CHILE

8. The provisions of the Convention adopted should be applied in their entirety and unconditionally to colonies.

9. See the reply to Question 8.

CHINA

8 and 9. The replies are in the affirmative.

DENMARK

8 and 9. The replies are in the affirmative (*see page 8*).

ESTONIA

8 and 9. These questions do not arise in the case of Estonia.

FINLAND

8 and 9. These questions do not concern Finland.

FRANCE

8. The reply is in the affirmative..

9. The Government sees no objection to the provision being based on Article 26 of the Forced Labour Convention.

GREAT BRITAIN

8. While, having regard to the provisions of Article 421 of the Treaty of Versailles, it is not considered that a colonial application Article would serve any useful purpose, H.M. Government would not oppose the insertion of such an Article in any Convention which may be adopted on this subject.

9. It is not considered that an Article on the lines of Article 26 of the Forced Labour Convention would be satisfactory in a Convention relating to the employment of women in mines which would be wholly inapplicable to the circumstances of certain Colonial dependencies.

In many there are no underground mines, and in some there are no known mineral deposits and therefore no foreseeable prospects of there being any underground mines. In such cases local legislatures could not be expected to allow their time to be taken up with legislation which could have no conceivable relevance to local circumstances.

In the circumstances, it is suggested that any colonial application Article which may be inserted in a Convention on this subject should be confined to something on the following lines :

“ Each Member of the International Labour Organisation which ratifies this Convention undertakes to append to its ratification a declaration stating :

- (1) the territories to which it intends to apply the provisions of this Convention without modification;
- (2) the territories to which it intends to apply the provisions of this Convention with modifications, together with details of the said modifications;
- (3) the territories to which it does not intend to apply the provisions of this Convention;
- (4) the territories in respect of which it reserves its decision.

It shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made in the original declaration, in pursuance of (2), (3) and (4) of the Article.”

INDIA

8 and 9. These questions do not concern India.

IRISH FREE STATE

8. The reply is in the affirmative.

9. It is the opinion of the Government that, in regard to this Convention, Members which ratify it should refrain from taking

advantage of the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace. Accordingly it is suggested that a Recommendation to that effect should accompany the Draft Convention.

ITALY

8 and 9. The Government is of opinion that provision should be made for extending the application of the regulations to colonial territories on lines similar to those laid down in Article 26 of the Forced Labour Convention.

LUXEMBURG

8 and 9. (No reply is given.)

NETHERLANDS

8 and 9. The reply is in the negative. Special provisions of this kind should be strictly limited. In the case of the Forced Labour Convention there was some reason for including a provision such as is contained in Article 26 of that Convention. In the case of the employment of women underground in mines, such employment has ceased to exist, or is in course of disappearing, in the metropolitan territories of the States Members, and it is difficult to conceive of its being introduced in countries where it does not already exist. Article 421 of the Treaty of Versailles takes account of the difficulties due to the conditions in colonies, possessions, etc., and its provisions are sufficient for the present case. The replies to Questions 8 and 9 are therefore in the negative.

NORWAY

- 8. The reply is in the affirmative.
- 9. The reply is in the affirmative.

POLAND

8 and 9. (No replies are given.)

SPAIN

8. The Government considers that the regulations should include a special provision relating to Article 421 of the Treaty of Peace such as is mentioned in the question.

9. The previous question having been answered in the affirmative, the provisions of Article 26 of the Forced Labour Convention might be taken as a model. The employment of women on underground work in mines of all kinds having been prohibited, it would be appropriate to limit the period of validity of the reservations made by Members of the International Labour Organisation who might desire to take advantage of the provisions of Article 421 of the Treaty of Versailles.

SWEDEN

8 and 9. As Sweden has no colonial territories, these Questions do not appear to call for reply by the Government.

SWITZERLAND

8. From the point of view of the protection of the workers, and having regard also to the economic evolution of the world, it would not be desirable to provide for the application of a special system to colonial territories.

YUGOSLAVIA

8 and 9. These two questions do not concern the Kingdom of Yugoslavia.

AUSTRIA

The reply of the Austrian Government to the Questionnaire, received as this Report was about to be sent to press, is given in full below. It was, of course, impossible to take account of this reply in the succeeding chapters.

1. In Austria this question is regulated, entirely in the sense contemplated by the International Labour Organisation, by the Act of 28 July 1919 (*Staatsgesetzblatt* No. 406), relating to the employment of young persons and women and, in Article 1, paragraph 3, to hours of work and Sunday rest in the mining industry. Moreover the prohibition in question was previously laid down in the Act of 21 June 1884 (*Reichsgesetzblatt* No. 115), which prohibited the employment of female workers of any age on underground work in mines.

Although Austria has no "direct" interest in the general adoption of these regulations, the Government's reply to this question is in the affirmative. A general prohibition would certainly be desirable.

2. It is of secondary importance to Austria whether the international regulations take the form of a Draft Convention or of a Recommendation. The Government, however, proposes a Draft Convention. In view of the undisputed acceptance for fifteen years in Austria of the legislative provisions mentioned above and of the unemployment among male mineworkers, no reason exists, or will exist even in the future, justifying a departure from this prohibition during the period covered by the Convention to be adopted.

3. A definition of the term "mines" should certainly be included in the international regulations. In this connection it would in some instances be desirable to go beyond the scope of the Austrian Mining Act of 23 May 1854 (*Reichsgesetzblatt* No. 146), and to include under the term "mines" all undertakings engaged in the extraction of mineral substances which, by reason of their size or the particular extracting processes used, must be worked in accordance with mining technique, regardless of whether the extraction takes place entirely or only partially underground and whether the mineral substances in

question are or are not to be regarded, in accordance with Article 3 of the above-mentioned Act, as "reserved" minerals.

4. As will be seen from the reply given to Question 3, the Government favours as wide a definition as possible of the term "mines".

5. Austria is only theoretically interested in the reply to this question. In Austria there are no female "manual" mineworkers employed underground, as such employment is forbidden by the Act referred to in the reply to Question 1. There are also no female salaried mines' employees or female public officials who would in the discharge of their duties have to go down into underground workings. From the point of view of the situation in Austria at the present time, the regulations could apply to all employed persons of the female sex, that is to say, to all "female workers" in accordance with Question 5 (b).

As it is, however, conceivable that persons of the female sex may in the future exercise the profession of a mining engineer or chemist, an inspector or, in particular, a doctor, there would be no objection to exceptions being provided for such categories of women, as the reasons justifying the exclusion of manual female workers from underground work in mines would not apply to the employees and officials mentioned owing to the temporary and occasional nature of their presence underground.

6. See the reply to the preceding question.

7 (a) and (b) The reply to this question is also covered by the reply to Question 5. The term "female workers" should include all persons of the female sex who are employed on work underground in mines. In this connection it should be provided that the term "female workers" should on no account include the salaried employees of a mining undertaking or inspectors of the Mines Service who are of the female sex.

8 and 9. As Austria has no colonial territories, these questions do not call for reply.

CHAPTER II

ANALYSIS OF THE REPLIES OF THE GOVERNMENTS

In this Chapter a brief summary is made of the replies of the Governments with a view to bringing out the measure of agreement among them on the various aspects of the problem under consideration and so establishing a basis for the proposals to be submitted to the Conference.

I. — Desirability of International Regulations

Question 1: Replies on pages 10 to 13

There is virtual unanimity among the Governments that have replied to or furnished observations upon the Questionnaire that the Conference should adopt international regulations prohibiting the employment of women on underground work in mines of all kinds.

Three Governments — those of the Canadian Province of Prince Edward Island, Iraq and Lithuania — have refrained from expressing a definite opinion on the subject since mining operations are not carried on in their territories, but in none of these cases does the Government raise any objection to the adoption of regulations by the Conference.

Ten other Governments, while not replying in detail to the Questionnaire, either expressly declare in favour of the adoption of regulations or, by referring to existing law or established practice in their countries, clearly indicate that the prohibition of the employment of women underground in mines meets with their approval. This category includes the Governments of the following countries : Australia, Bulgaria, Canada (Provinces of Alberta, British Columbia, New Brunswick and Ontario), Denmark, Japan, New Zealand, and the Union of South Africa.

Among the twenty-two Governments who have replied in detail to the Questionnaire there is complete unanimity in favour of the adoption of international regulations on this subject. This group includes the Governments of the following countries : Belgium, Brazil, Canada (Provinces of Manitoba, Quebec and Saskatchewan), Chile, China, Estonia, Finland, France, Great Britain, India, the Irish Free State, Italy, Luxembourg, the Netherlands, Norway, Poland, Spain, Sweden, Switzerland, Yugoslavia.

II. — Form of the Regulations: Draft Convention or Recommendation

Question 2: Replies on pages 13 to 15

With but one exception — the Canadian Province of Manitoba — all the detailed replies to the Questionnaire furnished by the twenty-two Governments mentioned above are in favour of the adoption of a Draft Convention rather than a Recommendation.

In addition, the Governments of New Zealand and the Union of South Africa, which did not reply to the Questionnaire in detail, indicate in their general observations that they contemplate the adoption of a Draft Convention.

III. — Scope of the Regulations

(a) AS REGARDS MINES

Questions 3 and 4: Replies on pages 15 to 19

The wording of the item on the Agenda of the Conference contemplates the application of any regulations adopted by the Conference to "mines of all kinds". Only one Government — that of Japan — suggests any exception. The Japanese Government, while in favour of the principle of prohibiting the employment of women on underground work in mines of all kinds, considers that, subject to safeguards, an exception should be allowed in the special case of certain coal mines. The exception proposed would be limited to coal mines which are at present being worked, which at present employ women on underground work, and which suffer from such unfavourable natural conditions that the prohibition of the employment of women underground would create a risk of the immediate closing down of the mine with consequential unemployment. The safeguard suggested is that the exception should be subject to the agreement of the employers and workers concerned.

No other Government suggests the exclusion of any mines from the scope of the regulations, and the only question arising is whether it would be desirable to include in the regulations a definition of the term "mines".

Two courses are possible. The regulations might be applied simply to "mines of all kinds" leaving any question of interpretation that might arise to be dealt with in the first place by the national legislation giving effect to the international regulations and eventually, if the need should arise, by the Permanent Court of International Justice in accordance with the provisions of Article 423 of the Treaty of Versailles. The alternative course is to include a definition in the regulations. Governments were

accordingly invited in Question 3 to express their views as to the expediency of including a definition of " mines " in the regulations, and in Question 4 to indicate what types of extractive workings should be covered by the definition in the event of it being found desirable to give one.

There is considerable division of opinion among the Governments as to the expediency of giving a definition of " mines ". Eight Governments are of opinion that a definition should not be included. These are the Governments of the following countries : Chile, China, Estonia, India, Italy, Norway, Poland and Yugoslavia.

On the other hand, fifteen Governments express themselves as in favour of giving a definition. These are the Governments of Belgium, Brazil, the Canadian Provinces of Manitoba, Quebec and Saskatchewan, Finland, France, Great Britain, the Irish Free State, Luxemburg, the Netherlands, New Zealand, Spain, Sweden and Switzerland.

It should be noted, however, that the replies of Governments to Question 4, dealing with the types of extractive workings to be covered by any definition to be adopted, are in general agreement in proposing that the definition should cover every kind of substance extracted, though they vary somewhat in phraseology. They range from the lengthy definition, framed with great attention to detail, proposed by the Brazilian Government (page 15) to the simple suggestion of the British, Chilean, Netherlands, Manitoban and Spanish Governments that the definition should cover all types of extractive workings.

There appears to be a general desire to extend the scope of the regulations not only to mines in the ordinary sense of the word, but also to workings of an analogous character, such as quarries, gravel pits, sand pits and clay pits, in which underground working, though it may not be the rule, may nevertheless be carried on to a greater or lesser extent. The Finnish Government suggests that in borderline cases such as might arise in these extractive workings analogous to mines, the decision as to whether the workings come within the scope of the international regulations should be left to the competent national authority.

(b) AS REGARDS PERSONS

Questions 5, 6 and 7 : Replies on pages 19 to 25

In Questions 5, 6 and 7 the Governments were invited to express their views as to the scope of the proposed regulations as regards the persons to whom they would apply. There are two possible courses : (1) application to all women without any exception whatsoever ; (2) application to the general body of women but non-application to certain special categories.

Very few Governments expressly declared in favour of application of the prohibition of employment underground to all

women without any exception whatsoever. The British Government would include : "All persons of the female sex with no exceptions whatever". The Brazilian Government's reply is almost equally categorical, but does admit the possibility of descent underground by women doctors in certain very exceptional conditions. The Polish and Luxemburg Governments propose that the prohibition should apply to "Every person of the female sex" and make no mention of any possible exceptions. Finally, the Chinese Government, while proposing the adoption of the term "female workers", interprets it as covering all persons of the female sex working in mines, whatever their age, without any exception. Among the Governments which have not replied in detail to the Questionnaire but which are in favour of the proposed prohibition there may also, of course, be some who would favour its application without any exceptions. On the information available, however, only these five Governments, namely, those of Brazil, China, Great Britain, Luxemburg, and Poland, can be classified as desiring the maximum possible extension of the scope of the regulations.

Eighteen Governments, namely those of Belgium, the Canadian Provinces of Manitoba, Quebec and Saskatchewan, Chile, China, Estonia, Finland, France, India, the Irish Free State, Italy, the Netherlands, Norway, Spain, Sweden, Switzerland and Yugoslavia, agree that the scope of the regulations should be limited to some extent.

As to the method of limiting the scope of the regulations there is also a divergence of view among the Governments. The method indicated in Question 5 (a), that is, application to all persons of the female sex with the exception of a few special categories, is favoured by twelve Governments, namely those of Belgium, the Canadian Provinces of Manitoba and Quebec, Chile, Estonia, Finland, France, India, Italy, the Netherlands, Sweden and Switzerland.

The method indicated in Question 5 (b), that is, definition of the scope of the regulations by the use of a term such as "female workers" (*ouvrières*), which as generally interpreted would be itself limitative, is favoured by the following six Governments : the Canadian Province of Saskatchewan, China, Irish Free State, Norway, Spain and Yugoslavia.

There is thus a decided majority in favour of the former method.

This difference of view would appear, however, to be largely a matter of form rather than of substance, since the categories which would, in the view of Governments, be excluded by the use of a term such as "female workers" are much the same as those proposed for exclusion by Governments favouring the alternative method of definition.

Exemption from the general prohibition of women who may have occasion to descend a mine in the exercise of a scientific or technical profession, such as engineers, geologists and chemists,

mists, is favoured by the Governments of the Canadian Province of Manitoba, Chile, Finland, India, the Irish Free State, Italy, the Netherlands, Spain and Switzerland. Descent into a mine would also be permitted in the case of doctors and nurses by the Governments of Chile, Estonia, Finland, France, India, the Irish Free State, Italy, Spain and Switzerland. Government officials are expressly mentioned by the Governments of the Irish Free State and Spain. Women occupying positions of management are proposed for exemption by the Governments of Chile, Estonia, Italy, Spain and Switzerland, while exemption of salaried employees is proposed by the Canadian Provincial Governments of Manitoba ("salaried employees") and Quebec ("salaried office employees") and the French Government ("employees of the survey office at the surface"). Exemption for technical students is expressly mentioned by the Governments of India and Switzerland.

Limitation of the prohibition in another way is proposed by the Governments of Belgium, France and Sweden. These Governments propose that the prohibition should apply to all persons of the female sex — "engaged in production or on work connected with production" (Belgium); "in respect of employment underground as the principal and permanent occupation" (France); or "employed on work which is in the strict sense of the term the working of a mine or quarry" (Sweden). These suggestions are comparable with those of the Governments of the Irish Free State and Norway, which prefer to define the scope of the prohibition by using the term "female workers" and indicate that in their view the term would designate manual workers. Exemption of the categories mentioned in the preceding paragraph would appear not to be in conflict with the views of these Governments.

It should further be observed that the replies of a number of Governments manifest a desire that the employment underground of women even in the excepted categories should not be permanent. This desire to limit the exceptions to occasional descents, or to employment for a strictly limited period only, finds expression in the replies of the Governments of Chile, Finland, France, Italy, the Netherlands, Spain and Switzerland.

Finally, attention may be drawn to the suggestion of the Finnish Government that the categories of persons to be exempted from the prohibition should be defined by the competent national authority.

From this analysis of the replies to the questions bearing on the delimitation of the scope of the regulations it would appear possible to give general satisfaction by applying the prohibition of employment underground to all persons of the female sex but permitting certain limited exceptions, and by defining the exceptions in such a way as to take account of the general trend of opinion shown in the replies to both Questions 6 and 7.

IV. — Application to Colonies, etc.

Questions 8 and 9: Replies on pages 25 to 29

As the question of the application of the regulations to colonial territories is of direct concern only to a limited number of States, only a few Governments replied to Questions 8 and 9.

In the case of any International Labour Convention, of course, a State which ratifies it is bound in virtue of Article 421 of the Treaty of Peace to apply it to its colonies, protectorates and possessions which are not fully self-governing, except where owing to the local conditions the Convention is inapplicable or subject to such modifications as may be necessary to adapt the Convention to local conditions. This obligation would in any event apply in the case of the regulations now under consideration, and the only question is whether any special provision on this point in the regulations themselves is necessary or desirable. In this connection question 9 asked whether a special provision on the lines of Article 26 of the Forced Labour Convention, 1930, should be included in the regulations.

The Netherlands Government is opposed to the inclusion of any special provision, considering that the requirements of the situation are sufficiently met by Article 421 of the Treaty of Peace.

The British Government would not oppose the inclusion of some special provision, though it does not regard such a provision as necessary; it is of opinion, however, that any special provision which might be adopted should not follow exactly the precedent established by Article 26 of the Forced Labour Convention, 1930. Pointing out that it would be unreasonable to expect the enactment of special legislation in conformity with the international regulations in territories where the question of underground mining does not in fact arise, this Government suggests a modified form of the provision contained in Article 26 of the Forced Labour Convention. Its proposal is that a Government should append to its ratification a declaration setting out (1) the territories to which it intends to apply the Convention without modification, (2) the territories to which it intends to apply the Convention with modifications, with details of the modifications, (3) the territories to which it does not intend to apply the provisions of the Convention, and (4) the territories in respect of which it reserves its decision.

The French and Italian Governments consider that some special provision is desirable and would approve of its being based on Article 26 of the Forced Labour Convention. The Spanish Government also agrees to following this precedent, but suggests that a time limit should be fixed to the operation of any reservations made by Governments in respect of Colonial application.

Among the other Governments which replied to these questions, those of Denmark, the Irish Free State and Norway agree to the inclusion of a special provision, while those of Brazil, Canada, Manchou-kuo and Switzerland are opposed to it. The Government of the Irish Free State, however, considers that Governments should abstain from availing themselves of the provisions of Article 121 of the Treaty and suggests that a recommendation in this sense should accompany the Draft Convention. Attention should also be called to the observations of the Estonian Government (page 26) which, pointing out that what is in effect the same problem may arise in countries without colonies, opposes any possibility of exempting colonial territories from complete application of the resolutions. The Governments of Chile and Switzerland appear also to be of this view.

There is thus a majority of Governments in favour of the inclusion in the resolution of a special provision relating to their colonial application, and while there is a certain divergence of views on the question of form it appears to be the general desire that the territorial scope of the resolutions should be as wide as possible.

CHAPTER III

CONCLUSIONS AND COMMENTARY UPON THE PROPOSED DRAFT CONVENTION

In view of the virtual unanimity of the Governments, the Office is clearly bound to submit to the Conference proposals for the adoption of international regulations in the form of a Draft Convention.

Article 1. Scope of the Draft Convention as regards Mines

The analysis of the replies given in Chapter II (pages 32 and 33) brought out the very general agreement among Governments that the Draft Convention should apply to extractive workings of every kind, without any exceptions referring to the nature of the substances extracted or to the precise character of the workings, i.e. whether wholly or only partly underground. It seems clear that it was in order to prevent the exclusion of certain workings — for example, open-cast pits or quarries where some part of the workings may be underground — which might perhaps be regarded as not coming within the everyday definition of mines, that a majority of Governments favoured the inclusion of a definition of the term "mine" in the Draft Convention, while the Governments which do not consider a definition necessary nevertheless indicate that the phrase "mines of all kinds" should be regarded as extending to the widest possible range of workings. There does appear to be a risk that the word "mine" as ordinarily understood might not cover all kinds of extractive workings, even with the addition of the phrase "of all kinds". On the other hand, it does not seem to be necessary in international regulations directed to a single and limited purpose to enter into such detail as has been considered expedient in national mining laws designed for the regulation of the many diverse features of mining work. For international purposes, there is every advantage in avoiding by brevity and simplicity the pitfalls which attend the framing of any definition.

The Office therefore proposes for the consideration of the Conference the inclusion of a short definition article designed to leave no room for doubt that for the purposes of the Draft Convention the term "mine" extends to every kind of working, whether it is wholly or partly underground, and whatever the substance sought or extracted.

*Articles 2 and 3. Scope of the Draft Convention
as regards Persons*

There is, as has been shown (pages 33 to 35), a clear majority of Governments in favour of the adoption of the first of the suggested alternative methods of defining the persons to whom the Draft Convention is to apply, i.e., of making the Draft Convention apply to all persons of the female sex and then providing for certain limited exceptions from this general rule. The task of the Office consisted, therefore, in framing a text on this basis.

On the question of principle, as to whether the prohibition of the employment of women underground should be absolute or whether certain exceptions should be permitted, there is a divergence of views. A few Governments favour absolute prohibition, while the great majority are of opinion that certain exceptions should be allowed. In these circumstances the most appropriate course would appear to be to lay down in the Draft Convention the general principle of prohibition, to give Governments a certain discretionary power of permitting exceptions, and to limit that discretion on the lines indicated in the replies of those Governments that have specified the few exceptions which they consider to be desirable.

Article 2 of the proposed text submitted by the Office therefore provides for a general prohibition of the employment of any female in any mine. It is hardly necessary to point out that the use of the word "female" instead of the word "woman" makes it clear that the prohibition applies to children and adolescents as well as to adult women.

Article 3, however, permits those States that wish to do so to provide, in their national laws or regulations, for certain exemptions from the general prohibition. States will, of course, be free not to allow all the exemptions specified in this Article, and also to attach any special conditions which may be thought desirable to any exemptions that are allowed. The limits within which this discretion may be exercised are laid down in four clauses, based on the replies of Governments.

Clause (a) permits the exemption of women holding positions of management, such as, for example, engineering experts. This would appear to be in accordance with the views of all the Governments that are in favour of permitting exceptions.

Clause (b) permits the exemption of women employed in health and welfare services. That women doctors, nurses and first-aid workers should be allowed to go down into the underground workings of a mine in the discharge of their duties is in accordance with the views expressed by a number of Governments, but welfare workers are not expressly mentioned by any of the Governments, though they would come within the general

exemptions suggested in a number of replies. Inasmuch, however, as the duties of persons engaged in a welfare service are, in certain respects, comparable with those of nurses and first-aid workers, and as in some cases there might be no very clear distinction between first-aid and welfare staff, it seems desirable to group the two services together for the purposes of permitting exemption.

Clause (c) is designed to permit of facilities for practical training being given to women taking up the profession of mining engineer, geologist, etc. Exemption for professional women was proposed by a considerable number of Governments, two of whom expressly refer to students. Moreover, the exemption of persons in training follows logically upon the exemption of women holding positions of management, since it would clearly be inconsistent to allow a woman technician to descend a mine in the course of her work whilst preventing aspirants to such posts from acquiring the practical experience underground necessary to enable them to become efficient. Some acquaintance at first hand with conditions underground might be a desirable part of the training even of officials whose work later will be entirely at the surface.

Clause (d) will enable States who desire to do so to make provision for any exceptional cases not covered by the three preceding clauses. It is so drafted as to maintain the prohibition of the employment of women underground in the case of all manual workers and to permit the relaxation of the rule, even in the case of non-manual workers, only for the purpose of meeting occasional necessities. It would not authorise continuous employment of a woman underground for any lengthy period, but would meet the case of a woman inspector, a woman technical expert called upon to do some special piece of work underground, or a woman not in the service of the mine itself who might have to make some investigation underground in connection, for example, with legal proceedings.

These permitted exemptions would seem to give as much latitude as is necessary or desirable. Article 2 lays down the general principle of prohibition, and States may enforce this prohibition without any exception if they so desire. In any event, the prohibition must be enforced in respect of all manual workers. In respect of non-manual workers, a State may, if it thinks fit, and to such extent and under such conditions as it thinks fit, permit certain departures from the general rule, but the latitude allowed is restricted so as to prevent any abuse such as the continuous employment of women in subordinate positions on the normal work of a mining undertaking underground. It should be emphasised that all the permitted exemptions relate to quite exceptional cases and that the number of persons affected would be extremely small.

It may perhaps be well to point out that it has not been thought necessary to follow the precedent furnished by many national laws cited in the replies of Governments to the Questionnaire, and in the Grey Report submitted to the Eighteenth Session of the Conference, by extending the prohibition to the mere presence of women workers in or about a mine. The purpose of the Draft Convention is to prohibit the *employment* of women workers underground. Prohibition of their *presence* underground may be desirable and even necessary in order to ensure effective enforcement of the prohibition of employment ; but this is a measure of execution which would appear to be a matter for national legislation rather than for a specific provision in the international regulations. The extension of the prohibition to employment even in the surface workings of a mine, though it would be in accordance with the views expressed in their replies by a number of Governments, would of course go beyond the limits of the item on the Agenda of the Conference.

Article 4. Application to Colonies, etc.

As has been seen (pages 36 and 37), there is a general desire among the Governments replying to the questions on the subject that the Draft Convention should receive the most effective application possible in colonial territories. As was pointed out both in the Grey Report presented to the Eighteenth Session of the Conference (page 27) and in the Questionnaire (page 10), and is again emphasised in the reply of the Netherlands Government to Questions 8 and 9, the prohibition of the employment of women underground in mines is a matter of practical interest almost exclusively in colonial territories. The question of the application of the Draft Convention to such territories therefore calls for close attention. It is necessary to respect both the obligations and the rights of States Members under Article 421 of the Treaty of Peace, and it was for this purpose that the Office drew attention in the Questionnaire to the precedent furnished by the Forced Labour Convention, 1930, which also dealt with a matter of special concern to colonial territories and in which therefore the Conference had deemed it expedient to include a special provision (in Article 26) on colonial application. Most of the Governments that express any views on this question consider that it would be well to follow the precedent established by the Conference in 1930 ; only one Government (the Netherlands) objects, while a second Government (Great Britain) suggests a modification of the form adopted in Article 26 of the Forced Labour Convention.

The Office has therefore included, in Article 4 of the proposals it submits to the Conference, a provision reproducing Article 26 of the Forced Labour Convention. This provision

does not, of course, weaken in any way the obligation imposed by Article 421 of the Treaty of Versailles. There are many cases in which the provisions of a Draft Convention are designed with a view primarily to meeting conditions as they exist in the metropolitan territories of the States Members, and Article 421 of the Treaty constitutes a recognition of the fact that it would not be reasonable in all such cases to require automatic application of the provisions of the Convention to all colonial territories without any modification whatsoever. In the present case, however, as in the case of the Forced Labour Convention, application to colonial territories is of primary importance. On this point there would not seem to be any difference of view among the Governments. It therefore seems desirable to enable Governments, by an express provision in the Convention itself, to assume a full and quite unequivocal obligation to apply the Convention to all the dependent areas for which they are responsible, and this is the purpose of the first part of Article 4. It would not appear that its inclusion would create any difficulty for the Netherlands Government. Nor would it seem that, as is feared by the British Government, the adoption of a provision in these terms need necessarily entail the enactment of legislation in colonial territories where there are in fact no mines. In the case of the Forced Labour Convention, which has been ratified and applied without exception by the British Government, it has not been found necessary to enact special legislation in territories where no forced labour is found. The problem of the employment of women on underground work in mines could, it would seem, be dealt with in precisely the same way.

In the later provisions of Article 4 account is taken of the possibility recognised by Article 421 of the Treaty, that some slight modification of the provisions of the Convention may be necessitated by local conditions in order to make effective application practicable. Accordingly the latter part of Article 4 prescribes a procedure to enable Governments that consider it necessary to avail themselves of the provisions of Article 421 of the Treaty to make known the exact extent to which they propose to avail themselves of that Article. In these provisions the British Government suggests the insertion of an additional clause providing for a specification of the territories to which the Convention is not to be applied. The cases in which such a clause would apply would surely be very few and isolated, if indeed there would be any such cases at all, and any advantage of greater precision that might be secured by the inclusion of the clause would seem to be outweighed by the fact that special reference to cases of non-application might be regarded as indicating a weakening of the principle of general application upon which stress is laid in the replies of many Governments.

On full consideration of the objections raised by the Netherlands and British Governments, therefore, the Office has decided to reproduce in its present proposals the complete text of Article 26 of the Forced Labour Convention, 1930, without modification.

With these observations, the Office submits, for the consideration of the Conference, the text of a proposed Draft Convention appearing in the following pages.

PROPOSED DRAFT CONVENTION CONCERNING THE EMPLOYMENT OF WOMEN ON UNDERGROUND WORK IN MINES OF ALL KINDS

ARTICLE 1

For the purpose of this Convention, the term "mine" includes any working for the extraction of any substance from under the surface of the earth.

ARTICLE 2

No female shall be employed on underground work in any mine.

ARTICLE 3

National laws or regulations may exempt from the above prohibition :

- (a) females occupying positions of management ;
- (b) females employed in health and welfare services ;
- (c) females who, in the course of their studies, spend a period of training in the underground parts of a mine ; and
- (d) any other females who may occasionally have to enter the underground parts of a mine for the purposes of a non-manual occupation.

ARTICLE 4

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to apply it to the territories placed under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority, so far as it has the right to accept obligations affecting matters of internal jurisdiction: Provided that, if such Member may desire to take advantage of the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace, it shall append to its ratification a declaration stating :

- (a) the territories to which it intends to apply the provisions of this Convention without modification ;

AVANT-PROJET DE CONVENTION CONCERNANT L'EMPLOI DES FEMMES AUX TRAVAUX SOUTERRAINS DANS LES MINES DE TOUTES CATÉGORIES

ARTICLE PREMIER

Pour l'application de la présente convention, le terme « mine » s'entend de toute entreprise pour l'extraction de substances situées en-dessous du sol.

ARTICLE 2

Aucune personne du sexe féminin ne peut être employée aux travaux souterrains dans les mines.

ARTICLE 3

La législation nationale pourra exempter de l'interdiction susmentionnée :

- a) les personnes occupant un poste de direction ;
- b) les personnes occupées dans les services sanitaires et sociaux ;
- c) les personnes en cours d'études admises à effectuer un stage dans les parties souterraines d'une mine en vue de leur formation professionnelle ;
- d) toutes autres personnes appelées occasionnellement à descendre dans le sous-sol d'une mine pour l'exercice d'une profession de caractère non manuel.

ARTICLE 4

1. Tout Membre de l'Organisation internationale du Travail qui ratifie la présente convention s'engage à l'appliquer aux territoires soumis à sa souveraineté, juridiction, protection, suzeraineté, tutelle ou autorité, dans la mesure où il a le droit de souscrire des obligations touchant à des questions de juridiction intérieure. Toutefois, si ce Membre veut se prévaloir des dispositions de l'article 421 du Traité de Versailles et des articles correspondants des autres Traités de Paix, il devra accompagner sa ratification d'une déclaration faisant connaître :

- a) les territoires dans lesquels il entend appliquer intégralement les dispositions de la présente convention ;

- (b) the territories to which it intends to apply the provisions of this Convention with modifications, together with details of the said modifications ;
- (c) the territories in respect of which it reserves its decision.

2. The aforesaid declaration shall be deemed to be an integral part of the ratification and shall have the force of ratification. It shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made, in pursuance of the provisions of sub-paragraphs (b) and (c) of this Article, in the original declaration.

- b) les territoires dans lesquels il entend appliquer les dispositions de la présente convention avec des modifications et en quoi consistent lesdites modifications ;
- c) les territoires pour lesquels il réserve sa décision.

2. La déclaration susmentionnée sera réputée partie intégrante de la ratification et portera des effets identiques. Tout Membre qui formulera une telle déclaration aura la faculté de renoncer, par une nouvelle déclaration, à tout ou partie des réserves contenues, en vertu des alinéas b et c ci-dessus, dans sa déclaration antérieure.
